

Gregory Zimmer, Esq.

GZimmer@GZimmerLegal.com
O: (914) 402-5683
M: (516) 991-1116

March 18, 2021

VIA ECF

Honorable Valerie Caproni, U.S.D.J.
United States District Court
Southern District of New York
40 Foley Square, Room 443
New York, New York 10007

Honorable Debra Freeman, U.S. Magistrate Judge
United States District Court
Southern District of New York
500 Pearl St.
New York, NY 10007-1312

Re: In re Navidea Biopharmaceuticals Litigation, Case No. 19-cv-01578-VEC

Dear Judges Caproni and Freeman:

As the Court is aware, I represent Defendant/Counterclaim Plaintiff/Third-Party Complaint Plaintiff Michael M. Goldberg, M.D. (“Dr. Goldberg”) in the above-referenced action. We write yet again to update the Court that on March 2, 2021 Dr. Goldberg submitted to Navidea complete billing records for the month of February 2021 and a calculation of the amount for which he seeks advancement, all in compliance with the protocol for going-forward advancement protocol adopted by the Court. Navidea did not pay a single dollar in undisputed fees or expenses and did not escrow a single dollar or provide any detailed objections to the request as required by the protocol.

Dr. Goldberg’s motion for contempt based on Navidea’s failure to comply with this court’s advancement protocol as well as the Court’s own *sua sponte* Order to Show cause have been fully briefed and Dr. Goldberg is at a loss to understand why the Court has taken no action in the fact of these submissions, especially the Court’s own Order to Show Cause. If further action is needed by Dr. Goldberg to trigger the advancement protocol he is entitled to that information from the Court after having sought guidance since October 2020 and finally filing an contempt motion. If additional action is required by the Court then Dr. Goldberg respectfully points out that the inaction has prevented him from receiving going-forward advancement per the Court’s protocol for six (6) months. If the protocol actually means what it says and has the force of a Court order then the Court must enforce it and award Dr. Goldberg fees and sanctions for Navidea’s refusal to comply for six (6) months. This is especially true given that Navidea was ordered to comply with the protocol in August 2020 and was admonished in a telephonic conference in January 2020 to “start paying.”

Honorable Valerie E. Caproni, U.S. District Judge
Honorable Debra Freeman, U.S. Magistrate Judge
March 18, 2021
Page 2

Thank for your attention to this matter.

Respectfully submitted,

/s/ Gregory Zimmer, Esq.